



INTERVENTION ON BEHALF OF THE GROUP OF 77 AND CHINA BY MS. PRIM MASRINUAN, COUNSELLOR, ON CROSS CUTTING ISSUES AT THE 2ND PREPCOM MEETING ON CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION (BBNJ) (New York, 8 September 2016)

Mr. Facilitator/Chair,

I have the honour to speak on behalf of the Group of 77 and China.

At the outset, please allow me to reassure you of our full support and cooperation in the discussion in this informal working group which is set up for the first time at this 2nd PrepCom. We trust that, under your able guidance and leadership, this informal working group will be conducted to a fruitful outcome.

We would like to thank you for the indicative list of questions as well as your overview which are very helpful for the preparation of the discussion. For the Group of 77 and China, most of the issues and questions mentioned in your lists require some further reflection. The discussion of some questions would gain more dynamic when the discussion on other topics becomes more crystallized. At this stage, we would like to share our views on some aspects of this issues as follows:

As clearly mentioned in the GA resolution 69/292, the **objectives** of the new instrument are to deal with topics identified in the package agreed in 2011, namely the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including, together and as a whole, all the topics we have at hands for consideration at the PrepCom. The objectives as well as some guiding principles and approaches that are necessary to achieve those objectives should be enshrined in the preamble of the new instrument. We can also inspire from the general principles contained in other existing instrument such as CBD or UN Fish Stocks Agreement.

At this stage, we would like to flag the **principles and approaches** that we consider important in this new instrument, especially the common heritage of mankind applicable to the utilization of MGRs and the conservation of marine biological diversity as they should be carried out for the benefit of mankind as a whole both for this generation and the next generations; the protection and preservation of the marine environment; the international cooperation and coordination; equitable and fair utilization of marine genetic resources; the special interest and needs for developing countries, especially least developed countries, landlocked developing countries and small island developing States (SIDS). These principles will also underpin the fair and equitable access and benefit sharing regime of MGRs as well as the importance of developing the capacity to enable developing countries to benefit from and take part in the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction. The new instrument will be developed under UNCLOS, in the terms stated in the GA resolution 69/292, therefore, as an overarching principle, we must maintain the fine balance of interests enshrined in that Convention.

- Regarding the **relationship** of the new instrument with other instruments and frameworks, as confirmed in the resolution 69/292, the new instrument should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies. Considering that the new instrument will be developed as an instrument under UNCLOS, the rights and obligations to be

included in the new instrument shall not undermine or prejudice the rights and obligations mentioned under UNCLOS, as well as other related agreements.

-Regarding the **participation** in the new international instrument, we call for a universal participation. States Party and non-States Party to UNCLOS can be part of the new agreement. As stated in the resolution 69/292, the Group also reiterates that neither participation in the negotiations nor their outcome may affect the legal status of non-parties to UNCLOS or any other related agreements with regard to those instruments, or the legal status of parties to UNCLOS or any other related agreements with regard to those instruments;

- Regarding the question of definitions, we can inspire from the existing instruments where some notions are defined in order to scope and give effect to the instruments. We believe that all the notions contained in the objective or main topics of the new instrument such as marine biological diversity, areas beyond national jurisdiction deserve to be defined. Furthermore, 'marine genetic resources', 'utilization of marine genetic resources' as well as their related technical notions should also be defined.

Regarding the **institution arrangements** of the new instrument, we are of the view that this question is rather complex. At this stage, we have some preliminary ideas of what we need from the new instrument to address. Then we need to reflect on different institutional mechanism that can effectively respond to those functions and requirements, such as institutional need for effective and meaningful capacity building and transfer of technology including the necessary funding, institutional need for an effective and equitable regime of access and benefit sharing and efficient mechanism for conservation and management pertaining to marine biodiversity. Once again, we can study lessons learned and best practices from other existing instruments. The institutional arrangements under the new instrument should consider 2 considerations 1) the high technicality of the concerned issues and 2) the need for an effective institution to operationalize the provisions of the new instrument.

At this stage, the Group of 77 and China is open to hear from other delegations about other cross-cutting issues and will be ready to offer their views at a later stage.